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REFORM OF OUR LAND LAWS.

Address by EUGENE C. MASSIE before the Virginia Bar Association at Old Point, Va., August 8th, 1905.

Standing here six years ago I sounded the first note for a comprehensive reform of our land laws. The movement then begun has steadily grown in momentum and intensity until now it is generally recognized that there are few, if any, subjects of greater consequence before the people of Virginia. It is no longer an academic question to which your attention is invited. It is a practical question, in which thoughtful people all over the state are deeply interested, that demands consideration at your hands. It is a live question about which voters in every county are concerned, that requires action by those whom they have nominated and are about to nominate as their representatives in the next General Assembly. Since the first effort was made in behalf of the Torrens System of Land Registration and Transfer for Virginia the following events have transpired:

A joint resolution was passed by the legislature on February 15, 1901, appointing a committee, of which the speaker was chairman, to draft a bill for future consideration. (Extra Session Acts 1901, p. 220, c. 210). Subsequent to this, the Constitutional Convention of 1901-2, appreciating the importance of the subject, devoted to it a complete section of the great instrument framed by those able and earnest men whose names will be enshrined and shine in history by the side of the best and noblest products of any period of the Old Dominion. This section confers special power upon the General Assembly "to establish such court or courts of land registration as it may deem proper for the administration of any law it may adopt for the purpose of the settlement, registration, transfer,

or assurance of titles to land in the state, or any part thereof" (Constitution of Virginia, sec. 100). This provision of our constitution was the fruit of efforts begun in this association, having been outlined in an upper room of the Colonnade Cottage at the Greenbrier White Sulphur Springs (that ought to be in Virginia) in August 1901, by the special committee on the Torrens System appointed by this association for the purpose, and being thereafter embodied by the efforts of other members of the association among the fundamental laws of the Commonwealth. And hereafter when the caviller shall inquire in his cavillous manner, "What has the State Bar Association ever done, anyhow?" he may be cavalierly answered by pointing to this section of the constitution of Virginia as one of the monuments of our achievements. In August 1902, at a meeting held at the Hot Springs, it was "Resolved, That is is the sense of the Virginia State Bar Association that the General Assembly of Virginia should enact proper legislation for the establishment of the Torrens Land System in Virginia, or in such portions thereof as it may deem wise and appropriate at this time." In January 1903, a Torrens Bill was completed by the chairman of the committee appointed by the General Assembly of 1901 as aforesaid, which was subsequently introduced both in the Senate and in the House of Delegates; but on account of the vast amount of legislation necessary to put the new constitution into effective operation, much of which was blocked by an absorbing impeachment trial in the House, nothing could be accomplished at that session. The same bill came up before the last General Assembly in 1904, and in an amended form only failed by three votes to pass the House of Delegates. It was then introduced in the Senate, and would probably have passed that body if it could have been brought to a vote. But as the session was about to come to an end, the bill was crowded out without a hearing. Throughout this struggle great interest was manifested in the fate of the measure, and members of the legislature received numerous letters from their constituents inquiring about the bill and asking for copies of it. So great was this demand that the General Assembly ordered a special edition of 500 copies to be printed at public expense for general distribution; but even this supply proved inadequate and was soon exhausted. The interest thus aroused has been continued, and the question of land law reform has, in a number of instances, been

made an issue in the pending campaign for nominations to the next legislature. The time has, therefore, passed when any member of the bar can afford to be ignorant of or indifferent to the subject. Some legislation is demanded for the relief of the people, and it is the duty of this association as well as of each individual member of the bench and bar to see that Virginia gets none but the best. This has been the ambition of the speaker. The bill presented to the last legislature was drawn after years of study; after a comparison of the Australian, English, Canadian, and American Acts; after personal investigation of the practical operation of the Land Registration Act of Massachusetts; after correspondence with prominent authorities on the subject at home and abroad; after interviews with such experts as could be reached in this country; and after consultation with such members of this association as could be induced to give any time to the subject. It has been graciously commended by those who have considered it, and it is now your privilege to correct such defects as may have escaped the author and its previous critics. You are earnestly solicited to give the commonwealth the benefit of your studious criticism.

It is impossible to go into every detail, but I beg leave to call your attention to a few salient features of the bill. In the first place, as originally drawn, it provides for the establishment of a Court of Land Registration, as was contemplated by the constitution. There is practical unanimity among the students of the subject, that a special court should, if possible, be given the administration of the registration system. This has not been done in some states, because there was no provision therefor in their constitutions. But it has been done in Massachusetts, and the constitution of Virginia has been drawn so as to permit us to follow her example. The reasons for a special court are apparent. The titles to lands involve questions of the greatest nicety and importance, requiring special learning, undisturbed consideration, patient investigation, and calm study for their just determination and settlement. It is surely best to have a court presided over by an expert in such matters, removed from the distractions of general causes and the excitements of ordinary or extraordinary jury trials involving all sorts of questions, criminal as well as civil; and it is essential that the court should have no terms (except those of justice),

but be always open for the constant and expeditious dispatch of business. Under the proposed bill such a court would be established, with headquarters in our capital city but with power to sit in any county or corporation if necessary or advisable—like our State Corporation Commission. But the county and corporation clerks throughout the commonwealth are made assistant recorders, the sheriffs and city sergeants are made officers of the court, and all the records concerning any title are permanently kept in the proper clerk's office of the city or county in which the land lies. There are also not less than two examiners of title to be appointed in every county or city, who shall have the powers of commissioners in chancery both to hear and take evidence and who shall make report on titles to the court. Some discreet and competent attorney at law of the county or corporation in which the land lies, is also to be appointed guardian *ad litem* for unknown persons or those under disabilities who may have an interest in or claim against the land; and the court shall also employ the services of the county surveyor or city engineer whenever surveys are necessary. In addition to all these safeguards for the protection and convenience of parties, any issue of fact shall, when desired by any party, be tried in the circuit court of the county or proper corporation court of the city in which the land lies. Thus no pains have been spared to bring every proceeding home to the people in order that all matters of title may be determined and preserved where the land lies, and there will be no occasion for inconvenience either to litigants or lawyers. Provision is further made for a direct appeal from the Court of Land Registration to the Supreme Court of Appeals. If the state corporation commission has not proved burdensome to the people nor uncomfortable for the lawyers, the court of land registration will be still less so in its practical operation. The expense of such a court which would serve all the people who own or desire to own homes in Virginia, would not exceed the annual appropriation made for the support of the "Crop Pest Commission" for the benefit of the limited class of fruit growers in the state, and is a mere bagatelle in comparison with the benefits to be derived from it. I hope to see such a court established and presided over by one to be sought by the office and so eminently qualified for the position that bench and bar and all the people shall be gratified by his election. Such a man I am sure can be found, and he will have a career

worthy of the highest faculties and serenest consecration to the honor of our profession and the weal of the people.

I have time to allude in detail to but one other feature of the bill, concerning the sale of lands for delinquent taxes. The tax laws of Virginia appear to have always been in miserable and inextricable confusion, and the efforts to enforce them have resulted in countless and heart-rending woes to many innocent citizens. It may be conceded that the state should be able to collect her taxes with certainty and promptness, and that failing to do so she should be permitted to take possession of and sell delinquent lands. But when she does this, she should do three other things: First, she should give the purchaser good title; second, she should sell the property at its fair market value; third, she should distribute the net proceeds, after the payment of taxes, costs, and other charges, among those entitled thereto. But the state has never done, nor even pretended to do, any one of these things. She has only undertaken to sell the title of the person in whose name the land is assessed on the land books for the year in which it has been returned delinquent. Now it is a notorious fact that of all the records in the state none are more inaccurate than the Land Books. In many instances lands are assessed for years in the name of dead persons or former owners who have long since parted with their titles. The purchaser of such lands would get no title at all, and on account of such and many other possible defects in titles acquired at tax sales they have never been considered of any certain value. The consequence has been that lands sold for taxes have never brought anything like their true value, but have usually been bought simply for the amount of taxes due upon them. The state has never done what she should to give the purchaser good title, and has shown equal or greater disregard for the rights of the true owner. In other words, the sale of lands for delinquent taxes has resulted in a practical forfeiture of the true owner's title on the part of the state, and a wild or odious speculation upon his neighbor's misfortunes on the part of the purchaser. This is all wrong, and the bill under consideration will correct these great evils and do justice to all parties concerned. It provides for full notice of all delinquencies to every owner of registered lands and gives him two years within which to redeem. There are two tax sales. At the first, the purchaser buys subject to the right of redemption and

receives a certificate of title upon which the transaction is registered. The owner is required to surrender his certificate and can only regain it from the purchaser by paying to him the amount of the delinquent taxes paid by him with interest plus the sum of five dollars. This will insure the prompt collection of her taxes by the state, as experience has shown. It is safe to say that in the large majority of instances the owner will pay the taxes himself rather than surrender his certificate even temporarily; and if he does not, a purchaser will always be found to make the payment promptly, since the transaction is bound to be a safe and profitable one for him. If the owner fails to redeem within two years after the first sale, the second and final sale is then made by the commissioner of revenue at public auction after due advertisement, in the same manner as property is sold under a deed of trust; an absolute title is acquired by the purchaser, and the net proceeds of the sale, after paying costs and taxes with penalty and interest, are distributed to the owner or those having liens registered against the land in accordance with their respective rights. At such a sale the property will fetch its full market value, equity will be done to all and injustice to none. Let Virginia adopt these provisions and she will have a model system for the collection of all taxes on real estate, she will do justice in this respect to her landowners, and she will banish from her borders the baneful band of land grabbers whose odious traffic has brought distress and ruin to many an honest but humble home.

And now passing from these details of the proposed bill, let us consider some of the general principles involved and the results that will probably follow the adoption of the Torrens System in Virginia. I beg you will bear in mind the fundamental distinction between the record of evidences of title, such as we now have, and the registration of title such as the Torrens System affords. In the one case, all the evidences must be examined and weighed upon every occasion before any opinion can be formed of the validity of title; in the other, the title itself is transferred by the simple act of registration and no further inquiry is necessary. In the one case, as all the evidences must be examined every time, the omission or oversight by accident or otherwise of any material evidence is necessarily fatal to any safe opinion; and as the evidences of title are constantly accumulating, the difficulties as well as the dangers

in forming opinions are being constantly multiplied. In the other case, since every act of registration is final, there are no such difficulties nor dangers to be encountered. In the one case, the only possible result, after all the labor and skill that may be expended, is an opinion which can only be based upon the records examined and must be qualified accordingly; and the same opinion might not be reached by any two lawyers. In the other case, you deal with the title itself and not with opinions concerning it. In the one case, it is well known that all the evidences of title need not be, and frequently are not, matters of record; and therefore, even the best and most expert opinions must frequently be based upon uncertainties. In the other case, nothing can affect a title unless it be duly registered upon the certificate. In the one case, it is impossible to keep a title good with certainty, even though you have cleared it to-day by an expensive law suit or other measures, because the system is radically defective and its lifeblood is filled with germs of disease. In the other case a perfect title is transferred by every act of registration and there are no constitutional defects to be feared.

Such are some of the contrasts between the record system under which we are living, and the system of registration that has spread from Australia throughout the races of progressive peoples that use our tongue.

"Experience hath shown," says Mr. Blackstone, "that property best answers the purposes of civil life, especially in commercial countries, when its transfer and circulation are totally free and unrestrained." This wise remark was made by that great authority almost a century and a half ago, and every year that has since elapsed has helped to demonstrate its wisdom. Certainly there is no property of greater intrinsic value than land, and it is equally certain that it would best answer the purposes of civil life if its transfer were made totally free and unrestrained. What is the result of any and every restraint of trade? Does it not narrow the market, lower the price of the article under its ban, and tend to exterminate the trader? This is a general law that applies alike to realty and personalty. If it is a good thing for people to deal in lands, every unnecessary restraint upon such dealings should be removed. If it is a good thing for every citizen to own his home, then every unnecessary obstacle and expense in the way of such

ownership should be removed. If it is a good thing for titles to be cleared up, settled, and kept good, a cheap, reasonable and certain method should be provided for the purpose. If good titles, improved lands, and salable properties have greater taxable values and yield better returns for the public treasury, the commonwealth cannot afford to reject any law that will accomplish such results. And I say without hesitation that all these things will be accomplished by the Torrens System of Land Registration—not in a day, not in a year, but just so soon as it can be put into full operation.

If the ancient restraints upon the alienability and transfer of personal property that have been brushed away by the sensible growth of the Law Merchant, were attempted to be reimposed either by the legislative, executive or judicial departments of government, the suggestion would be regarded as an act of outrageous tyranny, and if persisted in would precipitate a bloody revolution. And if a tithe of the restraints that now surround the transfer of land were applied to the transfer of personal property, the wheels of trade would be abruptly stopped, the machinery of commerce would be rudely wrecked, and society would be reduced to a state of chaos. Why should there be such a difference between these two classes of property? I stand here to declare that the time has come when all unnecessary distinctions must cease, and that every unjust discrimination against real estate in Virginia must be terminated by law. As early as 1777, Mr. Jefferson said, in speaking of the general revision of laws for Virginia:

"I proposed to abolish the law of primogeniture, and to make real estate descendible in parcenary to the next of kin, as personal property is, by the statute of distribution." That was a step in the right direction. It is now time to go further.

In his work on "The Laws and Jurisprudence of England and America," being a series of lectures delivered before Yale University in 1891-2, Judge John F. Dillon, the distinguished jurist and author, said:

"Real property with us does not serve as the foundation for personal distinction or family grandeur, and is invested with no peculiar sanctity. Its uses are those of property simply. It is an article of commerce, and its free circulation is encouraged. Without going into further details, I insist that the law of real property

in this country ought to be assimilated as near as possible to the law of personal property, and that it is practicable to emancipate it from all of the pernicious consequences of tenure, whether existing by the common law or growing out of the doctrine of uses . . . . But I do earnestly maintain that it is owing simply to the inertia and conservatism of our bar that it is willing to let this great department of our law remain in its present condition—chaotic, uncertain, complex, and abounding in subtleties and refinements; and this, although it is practicable to make it as simple, clear, and certain as any other part of our laws. Let us at length have deliverance from the remaining vestiges of the bondage of the Norman conqueror, and from the heavy burdens which a long succession of English chancellors, albeit without any fault of theirs, have imposed upon us." (Lecture VIII, pp. 240-1.)

Our land laws are inherited from England. We shook off the British yoke in 1776, and the fruits of that great revolution have been many. It is high time we were freeing ourselves from the bondage of the old feudal laws which even England herself is repudiating.

Any law that prevents the free use and transfer of property curtails to that extent the liberties of the people. Any law that puts an unnecessary tax on property is in its nature tyrannical. Any law that bears unequally upon the people is unjust. Any law that operates for the benefit of one class of citizens at the expense of another is outrageous. Any law that may deprive one man of his property without notice and bestow it upon another is intolerable.

Our present land laws do all these things; and because they do them we ought to undo the whole system and provide another for the public good. There can be no free use and transfer of lands so long as titles remain cumbersome, costly, and uncertain; the necessity for perpetual examinations of title is an unnecessary tax on lands, bears unequally upon the people, and operates for the benefit of one class of citizens at the expense of all others. Every free man who cares for his rights should declare that no man shall receive his support for public office in Virginia who does not promise to correct these abuses. They will all be cured by the Torrens System, which is no experiment but has been tried and tested by some of the most conservative and also the most progressive countries on both sides of the Atlantic. Nay, the testimony

comes from three continents and from the isles of two oceans. Australia, Tasmania, New Zealand, British Columbia, Manitoba, Ontario, England, Scotland, Illinois, California, Massachusetts, Minnesota, Oregon, Colorado, Porto Rico, Hawaii, and the Philippine Islands have blazed the way and all proclaim the worth of the Torrens System; while Georgia, Iowa, Kentucky, Louisiana, Maine, Michigan, Missouri, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Washington, West Virginia, and Wisconsin have taken steps to follow the lead. The question is shall Virginia keep up with the procession, or halting lag behind? The answer must first come from you, my brethren of the bar, who should be the leaders of thought and progress not only for Virginia but for the South and our kinsmen North, East, and West, as our spiritual and legal ancestors were wont to be. Constitutional questions are no longer to be apprehended, both because of the provision in the constitution of Virginia and because such questions have been fought out and solved in the forums of other states. (*People* v. *Chase,* 165 Ill. 527, 36 L. R. A. 105; *People* v. *Simon,* 176 Ill. 165, 44 L. R. A. 801; *Tyler* v. *Judges of the Court of Registration,* 175 Mass. 71, 51 L. R. A. 433; *William B. Tyler* v. *Judges of the Court of Registration,* 179 U. S. 404; *State* v. *Guilbert,* 56 Ohio 575; *State* v. *Westfall,* 84 Minn. 437, 57 L. R. A. 297.)

These cases dealing with the Torrens Acts of other states should be conclusive. But as "it is human to err," so is it eminently legal to doubt. And doubters may still be found who seize upon that clause of the XIV Amendment to the Constitution of the United States, saying: "nor shall any state deprive any person of life, liberty, or property, without due process of law," and endeavor to entrench themselves within its mysteries. The Supreme Court has remarked more than once upon "the abundant evidence that there exists some strange misconception of this provision," and has been wearied into chiding the lawyers with having looked upon the clause "as a means of bringing to the test of the decision of this court the abstract opinions of every unsuccessful litigant in a state court of the justice of the decision against him, and of the merits of the legislation on which such a decision may be founded." (*Davidson* v. *New Orleans,* 95 U. S. 97; *Missouri Pacific R. R.* v. *Humes,* 115 U. S. 512.)

The court has never undertaken to give any comprehensive

definition of the phrase but has declared that it will deal with each case as it arises, pronouncing it the part of wisdom to ascertain the intent and application of such an important phrase of the federal constitution, "by the gradual process of judicial inclusion and exclusion, as the cases presented for such decision shall require, with the reasoning on which such decisions may be founded." (*Davidson* v. *New Orleans, supra.*) It is believed that a sufficient number of such cases have been decided to establish the constitutionality of the bill under discussion, as will appear from the following citations. Due process of law does not necessarily imply a regular proceeding in a court of justice, or after the manner of such courts (*Murray* v. *Hoboken Land Co.,* 18 How. 272); it does not necessarily imply delay (*Kennard* v. *Louisiana,* 92 U. S. 480), nor a plenary suit and trial by jury (*Simon* v. *Craft,* 182 U. S. 427; *Ex parte Wall,* 107 U. S. 265; *Holden* v. *Hardy,* 169 U. S. 366; *Walker* v. *Savannah,* 92 U. S. 90; *Tinsley* v. *Anderson,* 171 U. S. 101); it does not require presentment and indictment by grand jury (*Hurtado* v. *California,* 110 U. S. 516; *Caldwell* v. *Texas,* 137 U. S. 692), but an information instead of an indictment is sufficient. (*Hodgson* v. *Vermont,* 168 U. S. 261; *Balln* v. *Nebraska,* 176 U. S. 83; *Maxwell* v. *Dow,* 176 U. S. 581; *Davis* v. *Burke,* 179 U. S. 399). Passing to positive expressions, the federal courts have held "due process of law" under the federal constitution to be equivalent to the words "law of the land" in Magna Charta (*Murray* v. *Hoboken,* 18 How. 272; *Davidson* v. *New Orleans,* 96 U. S. 97).

The "due process of law" clause of the XIV Amendment was intended as an additional security against the arbitrary deprivation of life and property and the arbitrary spoliation of property (*Hagar* v. *Reclamation District,* 111 U. S. 701; *Barbier* v. *Conolly,* 113 U. S. 28; *Kentucky R. R. Tax Cases,* 115 U. S. 321; *Dent* v. *West Virginia,* 129 U. S. 114; *Ex parte Converse,* 137 U. S. 624).

Legislation general in its operation upon the subjects to which it relates and enforceable by process or proceedings adapted to the nature of the case, affords "due process of law" (*Dent* v. *West Va.,* 129 U. S. 114); and so does a state statute, general in its application, embracing all persons under substantially like circumstances, and not being an arbitrary exercise of power (*Jones* v. *Brim,* 165 U. S. 175; *Leeper* v. *Texas,* 139 U. S. 462). The constitution does

not declare what principles are to be applied to ascertain "due process of law;" yet it is manifest that it was not left to the legislative power to enact any process which might be devised (*Murray* v. *Hoboken,* 18 How. 272). But forms of procedure in the state courts are not controlled by the XIV Amendment, provided the fundamental rights secured by the amendment are not denied (*L. & N. R. R. Co.* v. *Schmidt,* 177 U. S. 747). "Every state has the power to regulate the manner and conditions upon which real and personal property within its territory may be acquired, enjoyed, and transferred. Substituted services by publication or in any other authorized form, may be sufficient to inform parties of the object of proceedings taken, where property is once brought under control of the court by seizure or some equivalent act. The law assumes that property is always in the possession of its owner, in person or by agent; and it proceeds upon the theory that its seizure will inform him, not only that it is taken into the custody of the court, but that he must look to any proceedings authorized by law upon such seizure for its condemnation and sale. . . . In other words such service may answer in all actions which are subsantially proceedings *in rem.*" (*Pennoyer* v. *Neff,* 95 U. S. 714.) A state has "control over property within its limits; and the condition of ownership of real estate therein, whether the owner be stranger or citizen, is subject to its rules concerning the holding, the transfer, liability to obligations private or public, and the modes of establishing title thereto, . . . and no proceeding which it provides can be declared invalid, unless in conflict with some special inhibitions of the constitution, or against natural justice." (*Arndt* v. *Griggs,* 134 U. S. 31.) "The power of the state to regulate the tenure of real property within her limits, and the modes of acquisition and transfer, . . . is undoubted." (*U. S.* v. *Fox,* 94 U. S. 315. See also *McCormick* v. *Sullivant,* 10 Wheat. 202; *Beauregard* v. *New Orleans,* 18 How. 497; *Snydam* v. *Williamson,* 24 How. 427; *Christian Union* v. *Yount,* 101 U. S. 352.) In *Holden* v. *Hardy,* 169 U. S. 366, a review of all the cases concerning due process of law led to the statement that in passing upon the validity of state legislation under the XIV Amendment "this court has not failed to recognize the fact that the law is to a certain extent a progressive science; that in some of the states methods of procedure which, at the time the constitution was adopted, were deemed essen-

tial to the protection and safety of the people, or to the liberty of the citizen, have been found to be no longer necessary." And after mentioning some of the changes that had taken place, attention was called to the probability that other changes of no less importance might be made in the future. The court said that "the constitution of the United States, which is necessarily and to a large extent inflexible and exceedingly difficult of amendment, should not be so construed as to deprive the states of the power to so amend their laws as to make them conform to the wishes of the citizens as they may deem best for the public welfare without bringing them into conflict with the supreme law of the land." In the earlier case of *Hurtado* v. *California,* 110 U. S. 516, 530, it had been finely said: "The constitution of the United States was ordained, it is true, by descendants of Englishmen, who inherited the traditions of English law and history; but it was made for an undefined and expanding future, and for a people gathered and to be gathered from many nations and of many tongues. And while we take just pride in the principles and institutions of the common law, we are not to forget that in lands where other systems of jurisprudence prevail, the ideas and processes of civil justice are also not unknown. . . . There is nothing in Magna Charta, rightly construed as a broad charter of public right and law, which ought to exclude the best ideas of all systems and of every age; and as it was the characteristic principle of the common law to draw its inspiration from every fountain of justice, we are not to assume that the sources of its supply have been exhausted. On the contrary, we should expect that the new and various experience of our situation and system will mould and shape it into new and not less useful forms." It is fortunate for our government that such broad principles of adjudication and interpretation have swayed the Supreme Court of the United States since the days of its Great Chief Justice, John Marshall of Virginia; and faith in the permanence of our free institutions makes us confident that the greatest tribunal of law and order the world has ever seen will not readily depart from its grand and liberal traditions. In view of these authorities there would seem to be no reasonable ground to doubt the constitutionality of the Torrens Act proposed for Virginia, since it not only makes ample provision for personal notice to all known claimants and provides for such personal service of process as is required in chancery pro-

ceedings upon residents not under disability who are made known to the Court before final decree and can be reached by its process, unless such service be waived by appearance or otherwise, but also makes the proceedings *in rem* against the land itself and provides for a regular order of publication against all unknown and non-resident parties who may be concerned. I shall therefore allude to but one other case, that of *Leigh* v. *Green,* decided in 1903 and reported in 193 U. S. 79, in which it was held that "Due process of law is not denied the holder of a lien on real property by lack of any provision for personal service on him of notice of the pendency of proceedings *in rem* to enforce the lien acquired by a purchaser of the property at a tax sale, which are authorized by the Nebraska Statutes, where notice is given by publication to all persons interested in the property to appear and set up their claims." This was a case involving title under a tax sale. The court held that *publication* of notice was sufficient to bind *resident* as well as *non-resident* claimants of title. The proceeding was held to be *in rem,* under the Nebraska statute so declaring, and notice by publication "to all persons interested," was held to be good against all the world. It is worthy of note that the court quotes with approval *"Tyler* v. *Registraton Court Judges,* 175 Mass. 71," the case in whch Mr. Justice Holmes, who was then Chief Justice of the Supreme Court of Massachusetts, upheld the Massachusetts Torrens Act against all assaults.

So much for the legal aspects of the question. Let us turn once more, in conclusion, to the practical side of the situation in Virginia. A few statements of fact and corrections of misunderstandings, and I am done. The proposed bill does not make the Torrens System compulsory, but leaves it optional with every man whether or not he will register his land. The cost of original registration is uncertain, but should be moderate. It is certain that no such permanent improvement to real estate of equal value can be made at equal cost; and no one need undertake the cost who does not believe it will pay. The cost of registration will be only once incurred, and will avoid the endless examinations of title now in vogue. After registration titles can be passed quickly, cheaply, and with certainty; and certificates of title will be useful for quick loans, small loans, and short loans. The act will afford absolute protection against secret loans, and pocket deeds will be worthless.

The Act will promote the buying of homes, and will prevent losses by defective title. The "good fellow" who goes to village, town, or city and gets on a spree will *not* be able in a drunken moment to swallow his home and uncover the heads of his innocent wife and defenceless babes to the cruel storm, any more than he can now do so, even though he may have his certificate of title in his pocket. A deed must be presented along with the certificate before any transfer can be made. The act is *not* "for the benefit of the money sharks," but will help the farmers and every one who owns or deals in real estate. It will also benefit the commonwealth in many ways. What was "good enough for our fathers" is not necessarily "good enough for us." If there were anything in that so-called argument, we would have to surrender the steamboat, railway, telephone, telegraph, and many other blessings of the 20th century. "Our fathers" struck out for themselves, and we honor them because they were revolutionists and achieved better things not only for themselves but for succeeding generations. We will do well to follow their example. And finally, it is neither sacrilegious nor criminal to attempt a reform of the land laws. This much in answer to some of the "strong points" scored "by our friends the enemy" in the last house of delegates. It was charged by a number of newspapers last winter that the proposed bill was defeated in the legislature by a few lawyers who feared it would injure their business. That the leaders of the opposition were lawyers, is true; but that such honorable gentlemen fought the bill from personal and selfish motives, I am not prepared to believe. For members of the bar have always been ready to sacrifice private aims for public purposes, and no country can produce more illustrious exemplars of this fact than Virginia. The patrons and advocates of this measure in the General Assembly are among those to sustain this statement, and furnish full proof that members of the Virginia bar are still mindful of the glorious traditions of our profession. If it be shown, as I believe it has been, that the endless examinations of title required by our present land laws obstruct dealings in lands, depress values, and operate as a perpetual and unjust tax upon buyers and borrowers, I am satisfied that the honorable members of my profession will unite with me in endeavoring to relieve the people of these burdens. Brethren of the Virginia State Bar Association, I appeal to you for your potent aid in securing the reform of our land laws.